

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BILLIE J. PURVEY and DEFENSE LOGISTICS AGENCY,
Oakland, Calif.

*Docket No. 96-1946; Submitted on the Record;
Issued June 8, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's compensation for medical treatment effective April 30, 1996, on the grounds that she had no residual condition due to her November 17, 1994 employment injury after that date.

The Board has duly reviewed the case record in the present appeal and finds that the Office met its burden of proof to terminate appellant's compensation for medical treatment effective April 30, 1996, on the grounds that she had no residual condition due to her November 17, 1994 employment injury after that date.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits.¹ After it has been determined that an employee has disability causally related to his or her employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.² Further, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.³ To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition, which require further medical treatment.

In the present case, the Office accepted that appellant sustained a right biceps strain on November 17, 1994 and paid her compensation for medical treatment. On February 27, 1996 the Office notified appellant of the proposed termination of medical benefits. By decision dated

¹ *Charles E. Minniss*, 40 ECAB 708, 716 (1989).

² *Id.*

³ *Furman G. Peake*, 41 ECAB 361 (1990).

April 30, 1996, the Office terminated appellant's authorization for medical benefits on the grounds that she had no continuing condition due to her November 17, 1994 employment injury after that date.⁴

Following her injury, appellant received treatment from Dr. James Lawrence, who is Board-certified in emergency medicine. In a progress report dated October 26, 1995, Dr. Lawrence opined that appellant was status post biceps strain without disability. In a progress note dated December 14, 1995, Dr. Lawrence noted that appellant had minimal objective findings of a right biceps strain and right periscapular strain. In a progress report dated December 29, 1995, Dr. R. Schulze diagnosed a right shoulder strain and shoulder bursitis and found that she could continue to work. Dr. Schulze gave appellant an injection. In a progress report dated February 5, 1996, Dr. Schulze noted that appellant's shoulder had improved such that she did not require another injection and found that she could continue in her employment.

In a report dated August 25, 1995, Dr. James Turner, a Board-certified orthopedic surgeon and Office referral physician, reviewed the medical evidence of record and discussed appellant's history of injury and findings on examination. Dr. Turner found no objective findings on examination and minimal subjective complaints with a possible functional overlay. He diagnosed a strain of the right biceps muscle, which should have resolved within six months and stated that he had "no reasonable explanation for her continued complaints this long after a relatively simple injury without current objective clinical findings." Dr. Turner concluded that appellant needed no further medical treatment and could resume her regular employment without restrictions.

The Board has carefully reviewed the opinion of Dr. Turner and finds that it has reliability, probative value and convincing quality with respect to the conclusions reached regarding whether appellant has any residual impairment due to her accepted employment-related right biceps strain. Dr. Turner based his opinion on a proper factual and medical history, provided a thorough factual and medical history, discussed his objective findings and supported his conclusions regarding appellant's condition with medical rationale. The Office, therefore, properly relied upon the report of Dr. Turner to terminate appellant's medical benefits.

⁴ Appellant retired from the employing establishment in 1995. The record indicates that appellant began working as a home health aid.

The decision of the Office of Workers' Compensation Programs dated April 30, 1996 is hereby affirmed.

Dated, Washington, D.C.
June 8, 1998

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member